



March 30, 2007

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## ENGROSSED HOUSE BILL No. 1339

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DIGEST OF HB 1339 (Updated March 28, 2007 12:23 pm - DI 106)

**Citations Affected:** IC 31-9; IC 31-32; IC 31-37; IC 34-46.

**Synopsis:** Protection from self-incrimination for juveniles. Provides that information provided by a child in the course of mental health screening, assessment, evaluation, or treatment provided during juvenile court, probation, or intake proceedings may not be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime. Specifies that this provision does not affect a disclosure or reporting requirement in effect on July 1, 2007, under statute or in case law regarding a statement that relates directly to the facts or immediate circumstances of a homicide or reveals that the child may intend to commit a crime. Provides that a person who is at least 21 years of age and who is alleged to have committed a murder is not considered a child under juvenile law, even if the murder was committed when the person was less than 18 years of age, and specifies that certain juvenile procedures only apply to persons less than 18 years of age.

**Effective:** July 1, 2007.

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### Brown C, Ulmer

(SENATE SPONSORS — LAWSON C, SIMPSON)

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January 16, 2007, read first time and referred to Committee on Judiciary.  
February 1, 2007, amended, reported — Do Pass.  
February 6, 2007, read second time, ordered engrossed.  
February 7, 2007, engrossed. Read third time; call withdrawn.  
February 8, 2007, reread third time. Recommitted to Committee of One, amended, passed.  
Yeas 97, nays 0.  
February 9, 2007, re-engrossed.

#### SENATE ACTION

February 19, 2007, read first time and referred to Committee on Judiciary.  
March 29, 2007, amended, reported favorably — Do Pass.

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March 30, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1339

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A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 31-9-2-13, AS AMENDED BY P.L.145-2006,  
2 SECTION 177, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) "Child", for purposes of  
4 IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a  
5 child or children of both parties to the marriage. The term includes the  
6 following:  
7 (1) Children born out of wedlock to the parties.  
8 (2) Children born or adopted during the marriage of the parties.  
9 (b) "Child", for purposes of the Uniform Interstate Family Support  
10 Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.  
11 (c) "Child", for purposes of IC 31-19-5, includes an unborn child.  
12 (d) "Child", for purposes of the juvenile law, means:  
13 (1) a person who is less than eighteen (18) years of age;  
14 (2) a person:  
15 (A) who is eighteen (18), nineteen (19), or twenty (20) years  
16 of age; and  
17 (B) who either:

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(i) is charged with a delinquent act committed before the person's eighteenth birthday; or

(ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or

(3) a person:

(A) who is alleged to have committed an act that would have been murder if committed by an adult; ~~and~~

(B) who was less than eighteen (18) years of age at the time of the alleged act; **and**

**(C) who is less than twenty-one (21) years of age.**

(e) "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(f) "Child", for purposes of IC 31-16-12.5, means an individual to whom child support is owed under:

(1) a child support order issued under IC 31-14-10 or IC 31-16-6; or

(2) any other child support order that is enforceable under IC 31-16-12.5.

~~(g) "Child", for purposes of IC 31-33-24, has the meaning set forth in IC 31-33-24-1.~~

~~(h) "Child", for purposes of IC 31-33-25, has the meaning set forth in IC 31-33-25-1.~~

~~(i) (g) "Child", for purposes of IC 31-27 and IC 31-32-5, means an individual who is less than eighteen (18) years of age.~~

SECTION 2. IC 31-9-2-43.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 43.8. "Evaluator", for purposes of IC 31-32-2 and IC 31-37-8-4.5, means a person responsible for providing mental health screening, evaluation, or treatment to a child in connection with a juvenile proceeding or probation proceeding under this title.**

SECTION 3. IC 31-32-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2.5. (a) This section applies only to a court ordered or voluntary mental health:**

**(1) screening;**

**(2) assessment;**

**(3) evaluation; or**

**(4) treatment;**

**provided by or under the direction of an evaluator, as defined in IC 31-9-2-43.8, in conjunction with proceedings under this article.**

**(b) Except as provided in subsection (d) and except for purposes of:**

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1 (1) a probation revocation proceeding; or  
 2 (2) a modification of a dispositional decree under IC 31-37-22;  
 3 a statement communicated to an evaluator in the evaluator's  
 4 official capacity may not be admitted as evidence against the child  
 5 on the issue of whether the child committed a delinquent act or a  
 6 crime.

7 (c) This section does not affect the admissibility of evidence  
 8 when a juvenile interposes the defense of insanity.

9 (d) This section does not affect a disclosure or reporting  
 10 requirement in effect on July 1, 2007, under statute or in case law  
 11 regarding a statement that:

12 (1) relates directly to the facts or immediate circumstances of  
 13 a homicide; or

14 (2) reveals that the child may intend to commit a crime.

15 SECTION 4. IC 31-37-8-4.5 IS ADDED TO THE INDIANA CODE  
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 17 1, 2007]: Sec. 4.5. (a) This section applies only to a court ordered or  
 18 voluntary mental health:

19 (1) screening;

20 (2) assessment;

21 (3) evaluation; or

22 (4) treatment;

23 provided by or under the direction of an evaluator, as defined in  
 24 IC 31-9-2-43.8, in conjunction with proceedings under this chapter.

25 (b) Notwithstanding section 4(5) of this chapter and except as  
 26 provided in subsection (d) and except for purposes of:

27 (1) a probation revocation proceeding; or

28 (2) a modification of a dispositional decree under IC 31-37-22;  
 29 a statement communicated to an evaluator in the evaluator's  
 30 official capacity may not be admitted as evidence against the child  
 31 on the issue of whether the child committed a delinquent act or a  
 32 crime.

33 (c) This section does not affect the admissibility of evidence  
 34 when a juvenile interposes the defense of insanity.

35 (d) This section does not affect a disclosure or reporting  
 36 requirement in effect on July 1, 2007, under statute or in case law  
 37 regarding a statement that:

38 (1) relates directly to the facts or immediate circumstances of  
 39 a homicide; or

40 (2) reveals that the child may intend to commit a crime.

41 SECTION 5. IC 34-46-2-28.5 IS ADDED TO THE INDIANA  
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2007]: Sec. 28.5. IC 31-32-2-2.5 and  
2 IC 31-37-8-4.5 (Concerning information communicated to an  
3 evaluator providing mental health screening, evaluation, or  
4 treatment to a child in connection with a juvenile proceeding or  
5 probation proceeding.)

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1339, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-9-2-43.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 43.8. "Evaluator", for purposes of IC 31-32-2 and IC 31-37-8-4.5, means a person responsible for providing mental health screening, evaluation, or treatment to a child in connection with a juvenile proceeding or probation proceeding under this title.**"

Page 1, line 3, after "a" insert **"court ordered or voluntary"**.

Page 1, line 8, delete "a clinician or health care" and insert **"an evaluator, as defined in IC 31-9-2-43.8,"**.

Page 1, line 9, delete "professional".

Page 1, delete lines 10 through 13.

Page 1, delete line 14, begin a new paragraph and insert:

**"(b) Except for purposes of:**

**(1) a probation revocation proceeding; or**

**(2) a modification of a dispositional decree under IC 31-37-22; a statement"**.

Page 2, delete lines 1 through 9, begin a new paragraph and insert:

**"(c) This section does not affect the admissibility of evidence when a juvenile interposes the defense of insanity."**

Page 2, line 12, after "a" insert **"court ordered or voluntary"**.

Page 2, line 17, delete "a clinician or health care" and insert **"an evaluator, as defined in IC 31-9-2-43.8,"**.

Page 2, line 18, delete "professional".

Page 2, delete lines 19 through 22.

Page 2, line 23, delete "(c)" and insert **"(b)"**.

Page 2, line 23, delete "except as" and insert **"except for purposes of:**

**(1) a probation revocation proceeding; or**

**(2) a modification of a dispositional decree under IC 31-37-22;"**.

Page 2, line 24, delete "provided in subsection (d), a disclosure", begin a new line blocked left and insert:

**"a statement"**.

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Page 2, delete lines 28 through 36, begin a new paragraph and insert:

**"(c) This section does not affect the admissibility of evidence when a juvenile interposes the defense of insanity.**

SECTION 3. IC 34-46-2-28.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 28.5. IC 31-32-2-2.5 and IC 31-37-8-4.5 (Concerning information communicated to an evaluator providing mental health screening, evaluation, or treatment to a child in connection with a juvenile proceeding or probation proceeding.)"**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1339 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 12, nays 0.

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#### HOUSE MOTION

Mr. Speaker: I move that House Bill 1339 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

Page 1, line 17, after "Except" insert **"as provided in subsection (d) and except"**.

Page 2, between lines 8 and 9, begin a new paragraph and insert:

**"(d) A statement described in subsection (b) may be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime if:**

- (1) the statement relates directly to the facts or immediate circumstances of a homicide;**
- (2) the statement reveals that the child may intend to commit a crime; or**
- (3) the child and the child's legal guardian have consented to the disclosure of the statement."**

Page 2, line 19, after "except" insert **"as provided in subsection (d) and except"**.

Page 2, between lines 28 and 29, begin a new paragraph and insert:

**"(d) A statement described in subsection (b) may be admitted as evidence against the child on the issue of whether the child**

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**committed a delinquent act or a crime if:**

- (1) the statement relates directly to the facts or immediate circumstances of a homicide;**
- (2) the statement reveals that the child may intend to commit a crime; or**
- (3) the child and the child's legal guardian have consented to the disclosure of the statement."**

(Reference is to HB 1339 as printed February 2, 2007.)

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#### COMMITTEE REPORT

Mr. Speaker: Your Committee of One, to which was referred House Bill 1339, begs leave to report that said bill has been amended as directed.

BROWN C

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#### COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1339, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-9-2-13, AS AMENDED BY P.L.145-2006, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) "Child", for purposes of IC 31-15, IC 31-16 (excluding IC 31-16-12.5), and IC 31-17, means a child or children of both parties to the marriage. The term includes the following:

- (1) Children born out of wedlock to the parties.
- (2) Children born or adopted during the marriage of the parties.
- (b) "Child", for purposes of the Uniform Interstate Family Support Act under IC 31-18, has the meaning set forth in IC 31-18-1-2.
- (c) "Child", for purposes of IC 31-19-5, includes an unborn child.
- (d) "Child", for purposes of the juvenile law, means:

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- (1) a person who is less than eighteen (18) years of age;
- (2) a person:
  - (A) who is eighteen (18), nineteen (19), or twenty (20) years of age; and
  - (B) who either:
    - (i) is charged with a delinquent act committed before the person's eighteenth birthday; or
    - (ii) has been adjudicated a child in need of services before the person's eighteenth birthday; or
- (3) a person:
  - (A) who is alleged to have committed an act that would have been murder if committed by an adult; **and**
  - (B) who was less than eighteen (18) years of age at the time of the alleged act; **and**
  - (C) who is less than twenty-one (21) years of age.**

(e) "Child", for purposes of the Interstate Compact on Juveniles under IC 31-37-23-1, has the meaning set forth in IC 31-37-23-1.

(f) "Child", for purposes of IC 31-16-12.5, means an individual to whom child support is owed under:

- (1) a child support order issued under IC 31-14-10 or IC 31-16-6; or
- (2) any other child support order that is enforceable under IC 31-16-12.5.

~~(g) "Child", for purposes of IC 31-33-24, has the meaning set forth in IC 31-33-24-1.~~

~~(h) "Child", for purposes of IC 31-33-25, has the meaning set forth in IC 31-33-25-1.~~

~~(i)~~ **(g)** "Child", for purposes of IC 31-27 **and IC 31-32-5**, means an individual who is less than eighteen (18) years of age."

Page 2, delete lines 10 through 18, begin a new paragraph, and insert:

**"(d) This section does not affect a disclosure or reporting requirement in effect on July 1, 2007, under statute or in case law regarding a statement that:**

- (1) relates directly to the facts or immediate circumstances of a homicide; or**
- (2) reveals that the child may intend to commit a crime."**

Page 2, delete lines 39 through 42, begin a new paragraph, and insert:

**"(d) This section does not affect a disclosure or reporting requirement in effect on July 1, 2007, under statute or in case law regarding a statement that:**

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**(1) relates directly to the facts or immediate circumstances of a homicide; or**

**(2) reveals that the child may intend to commit a crime."**

Page 3, delete lines 1 through 5.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1339 as reprinted February 9, 2007.)

BRAY, Chairperson

Committee Vote: Yeas 5, Nays 1.

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